

Serial No.: 09/545,769

Attorney Docket No.: 2000P07572US

REMARKS

Upon entry of the Instant Amendment, Claims 4, 5, and 9-17 are pending. Applicants gratefully acknowledge that claims 4-5 and 9-10 were indicated to be allowable. Claims 11, 12, and 15 have been amended to more particularly point out Applicants' invention.

Claims 11-17 have been rejected under 35 U.S.C. §103 as being unpatentable over Colley et al., U.S. Patent No. 6,650,644 ("Colley") in view of Ors et al., U.S. Patent No. 6,731,639 ("Ors"). Applicants respectfully submit that the claimed invention is not taught, suggested, or implied by Colley or Ors, either singly or in combination.

In particular, claim 11 has been amended to recite "intercepting a second byte from an Internet Protocol header from an IP layer at a Generate Quality of Service layer interposed between said IP layer and a Quality of Service Ethernet layer;" and claims 12 and 15 have been amended to recite "reading said second byte at a Generate Quality of Service layer interposed between said IP layer and a Quality of Service Ethernet layer before said IP protocol data packets are sent over a network."

As acknowledged in the Official Action, Colley does not provide such features. Applicants respectfully submit that Ors fails likewise to provide, inter alia, a Generate Quality of Service layer interposed between said IP layer and a Quality of Service Ethernet layer." Even assuming arguendo that Ors provides a Quality of Service Ethernet layer, Ors does not provide a Generate QoS Ethernet layer as recited in the claims at issue. For these reasons, and for reasons similar to those of the allowed claims, Applicants respectfully submit that these claims, too, are allowable; as such, the Examiner is respectfully requested to reconsider and withdraw the rejection of the claims.

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For all of the above reasons, Applicants respectfully submit that the application is in condition for allowance, which allowance is earnestly solicited.

Respectfully requested,

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